

REMARKS

Original claims 1-4 are presented and claims 5-8 have been added.

Original claim 1 has been amended to overcome the language objections made by the Examiner. In addition, the claim has been amended to make it clear that it is directed to the supporter to be attached to male underpants. Claims 2-4 depend from claim 1. The new set of claims 5-8 are directed to the combination of the underpants and supporter with the elements of the supporter of claims 5-8 corresponding to those set forth in claim 1-4. That is, claims 1-4 are effectively directed to a sub-combination.

Claims 1-4 are rejected over the combination of Flesh, U.S. 2,058,970 in view of Baer, U.S. 2,050,410.

Amended claim 1 recites that there are "a pair of suspending devices are connected to a lower piece". This is the lower piece of the support, i.e., under the scrotum. In contrast, in Flesh, a pair of suspending devices are connected to the top portion of a piece which covers the scrotum and the penis, as described in Figs. 1 and 2.

The structure of the supporter of the invention as set forth in claim 1 is advantageous because the pair of suspending devices are connected to a lower piece that is to support the scrotum and not to an upper piece. Male organs are special organs whose shape and volume change over time due to various factors and which can be prevented from being constricted. Support of the scrotum by the lower piece in combination with other structural features of claim 1 can accommodate for this. This is not achievable with the structure of Flesh.

Baer is cited to meet the claim 1 limitation of the elastic axis device which is to connect the back edge of the lower piece to an inner crotch of the underpants. Baer shows only a garment with a support portion made entirely of a panel of a two-way stretch material which is to support the male organ. This does not at all correspond to the elastic axis device as set forth in claim 1, which has one end connected to the lower piece that is to support the scrotum and the other end to be connected to the underpants.

Also, Baer's garment does not have the pair of suspending devices connected to the lower piece of a support. Further, there appears to be no reasonable basis to make the combination as suggested by the Examiner. If said combination is made, the result only would be in making Flesh's supporter panel 15 of two-way stretch elastic material. This would not provide the suspended type of support to the scrotum provided by the claimed lower piece of the invention.

Accordingly, claim 1 defines a structure which is different from and has advantages over that resulting from the combination of references made by the Examiner. Accordingly, claim 1 is clearly patentable and should be allowed.

In view of the allowability of claim 1, claims 2-4, which depend from it and recite further features of the supporter, also are patentable and should be allowed.

The arguments presented above with respect to claims 1-4 apply to new claims 5-8. Therefore, these claims also are patentable and should be allowed.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Prompt and favorable action is requested.

Dated: June 15, 2004

Respectfully submitted,

By 

S. Peter Ludwig

Registration No.: 25,351

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 753-6237 (Fax)

Attorneys/Agents For Applicant